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P: (212) 595-6200  
F: (212) 595-9700  
ekorub@mizrahikroub.com

February 7, 2023

**VIA ECF**

The Honorable Analisa Torres  
United States District Judge  
United States District Court  
Southern District of New York  
500 Pearl Street  
New York, NY 10007

Re: Zarzuela v. Biostrap USA LLC; Case No. 1:22-cv-9583 (AT)

Dear Judge Torres:

We represent plaintiff Jose Zarzuela (“Plaintiff”) in the above-referenced action and write this letter-motion in connection with the Court’s February 1, 2023 Order requiring the parties to file a revised case management plan with a “joint alternative dispute resolution mechanism.” *See* Docket No. 13. The parties remain at a standstill – Plaintiff requests mediation and Defendant requests a settlement conference (as noted in the proposed case management plan). On Friday, February 2, 2023, one of my associates informed chambers of this impasse, and a clerk suggested that the Court may issue some guidance. To date, no Order was issued.

This issue has arisen in the past in other ADA website accessibility cases. On at least one prior occasion, the Court agreed with Plaintiff’s position that mediators have some “skin in the game” as they carefully monitor statistics, including the percent of cases settled in mediation. We have been able to corroborate the skill and success of the S.D.N.Y.’s mediation program in these types of cases and respectfully request that the Court issue a mediation referral order.

We thank the Court for its consideration of the above request.

Respectfully submitted,  
/s/ Edward Y. Kroub  
 EDWARD Y. KROUB

DENIED. The Court will not decide on an alternative dispute resolution mechanism for the parties. By **February 10, 2023**, the parties shall file a revised case management plan with a jointly proposed alternative dispute resolution mechanism.

SO ORDERED.

Dated: February 8, 2023  
 New York, New York

  
 ANALISA TORRES  
 United States District Judge